



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

AUG - 5 2002

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MEMORANDUM FOR SUSAN E. GILBERT  
ACTING MANAGER, GRANTS ADMINISTRATION PROGRAM  
(SPEC)

FROM:

*Deborah A. Butler*  
Deborah A. Butler  
Associate Chief Counsel (Procedure & Administration)

SUBJECT:

Low Income Taxpayer Clinics: Ancillary Return Preparation

This responds to your request that we define the term "ancillary" as found in the proposed tax return preparer regulations.

The proposed regulations, at Prop. Treas. Reg. §301.7701-15(a)(8)(i), exclude from the definition of income tax preparer those low income taxpayer clinics (LITCs) and their employees that assist taxpayers with a tax return or claim for refund, if the LTC meets certain requirements. First, the LTC's assistance must be "directly related to a controversy with the IRS," or an "ancillary part of an LTC program to inform individuals for whom English is a second language [ESL] about their rights and responsibilities under the Internal Revenue Code." Second, if an LTC charges a fee for the return or refund claim assistance, the clinic must meet the requirements of §301.7701-15(a)(8)(ii) of the proposed regulations.

The term "ancillary" essentially means incidental. That is, the LTC's program must focus on outreach and education—not tax preparation. If, for example, in the course of an LTC's conducting outreach or education, an ESL client requests help with a tax return and the LTC obliges, the return preparation would be ancillary (incidental) to the LTC's primary activity of outreach and education.

Assuming an LTC advertises its services, it would have to advertise and promote itself as providing information and education to help ESL individuals understand the federal tax system. For example, an LTC could advertise a community meeting to acquaint ESL individuals with their rights and responsibilities under the tax system. Posters, radio advertisements, or any other media announcing the meeting could not mention tax return or claim for refund assistance. Nor could any posters at the LTC's clinic advertise return or refund claim preparation.

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